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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,145	07/18/2003	George K. Stookey	22076-2	5211
7590	04/04/2006		EXAMINER	
Woodard, Emhardt, Moriarty, McNett & Henry LLP Bank One Center/Tower Suite 3700 111 Monument Circle Indianapolis, IN 46204-5137			SAYALA, CHHAYA D	
			ART UNIT	PAPER NUMBER
			1761	
DATE MAILED: 04/04/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/623,145	STOOKEY, GEORGE K.
	<b>Examiner</b>	<b>Art Unit</b>
	C. SAYALA	1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-21 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spanier et al. (US Patents 5011679 and 5114704) in view of Witt et al. (U Patent 6350438) or Glandorf et al. (US Patent 6521216) and further in view of Perlberg et al. (US Patent 6223693).

Both the Spanier patents teach rawhide being coated with inorganic pyrophosphate with the formula  $M_{n+2}P_nO_{3n+1}$  (see col. 12, lines 6-13 in both), wherein the pyrophosphates are known to be anti-tartar, anti-plaque or anti-calculus agents. (Col. 9, lines 55-60, col. 9, lines 58-59, respectively). The patents show, in addition, other additaments, see for instance, col. 13, lines 55-60 in '679. In '704 for example, the patentees teach that the coated rawhide can be used for both dogs as well as cats (col. 14, lines 25+ in '704). Also, note the amounts of pyrophosphate in Table 1, 0.25-5%. The patentees also teach using such a coating on other dog foods, such as biscuits. The patent teaches packaging such products. It would therefore, have been obvious to package the rawhide coated product too, and packaging such rawhide chews is a commonplace expedient as any store which sells such products will show.

Witt et al. teaches antiplaque antimicrobial agents in an amount of at least .01% by weight. See cetyl pyridinium chloride shown at col. 16, line 43, as such an agent. The patent also discloses tripolyphosphate as an anti-calculus agent in an amount 1.5-15%. See col. 14, line 51, col. 15, lines 17-23, line 40 and specifically line 32. The composition is applied to chews such as rawhide (col. 19, lines 7, 10-11).

Glandorf et al. also teach chews such as rawhide (col. 18, lines 11-14 which are incorporated with a composition that includes tripolyphosphates as anti-calculus agents (col. 10, lines 32-37) and from about 0.01 to 1.5% of cetylpyridinium chloride as antimicrobial benefits (col. 13, line 56, col. 14, lines 11, 33-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply on or incorporate in rawhide, with a composition such as that of Spanier et al. for its benefit as an anti-calculus agent and to combine such a composition with cetyl pyridinium salt, for its established benefit as an antimicrobial agent. To apply the amounts or to optimize the ranges shown by the above references when such a combination is made would have been within the realm of the artisan, bearing in mind the usefulness of the two ingredients, each for its established utility and benefit for rawhide application. To provide the number of chews to a pet would have been obvious also, depending on the advice of a veterinarian or as desired by the pet owner. With regard to claims 3 and 4, Perleburg et al. is exemplary in teaching the formation of rawhide chews and therefore to follow such a patent and then to apply the composition of the combination of an anticalculus agent and an antimicrobial agent both shown as being useful when applied to a rawhide, would have been obvious.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
C. SAYALA  
Primary Examiner  
Group 1700.